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# The WTO Trade Facilitation Agreement: Consulting the Private Sector

Andrew GRAINGER<sup>\*</sup>

*Trade facilitation concerns itself with the operational quality of the international trade environment; and has its roots in the frustrations experienced by businesses when moving goods across borders – especially with regard to inefficient border management practices and trade and customs procedures. On 7 December 2013 the WTO reached an agreement on trade facilitation. Now, with trade facilitation at the very heart of contemporary trade policy, trade diplomats are faced with the challenge of having to reach a view about the quality of trade facilitation in any given country. Subsequently, as this paper argues, dedicated institutional mechanism involving the private sector – for example, within the spirit of UN CEFAC Recommendation 4 – need to be developed. Although consultation with the private sector is not without its challenges, they would help ensure that the resources invested into trade facilitation are put to best use, and that the quality of implemented trade facilitation measures are continuously monitored and assessed.*

## 1 INTRODUCTION

The WTO Trade Facilitation Agreement (the Agreement) was signed on 7 December 2013 by its 159 Member States and is one of the main outcomes of the recent Ministerial in Bali.<sup>1</sup> Considering that average import tariff for merchandise goods amongst developed countries is reported to be 3.8%, it should not be a surprise that trade policy now concerns itself with the operational aspects that impact on the cost of transporting and trading goods.

Trade facilitation is a term often used as a short-hand for the reduction of red-tape in international trade, especially with regards to customs and other trade

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<sup>1</sup> The deadline for adoption by the WTO General Council has been set for the 31 Jul. 2014. Ratification by the WTO Member States is to take place by 31 Jul. 2015. Ratification requires a two-third majority. Once in effect, its measures will become binding on all those states that have signed it. Special concessions are being made to developing and least developed countries and many promises for aid have been made.

and border procedures.<sup>2</sup> It is the plumbing of international trade (Staples, 2002) and very much borne out of the frustrations that shippers and their transport and logistics service providers experience when trying to be compliant with applicable trade and customs procedures (Grainger, 2011). Benefits resulting from the WTO Trade Facilitation Agreement are thought to be significant. Indeed, organizations such as the World Bank and the Organization for Economic Co-operation and Development (OECD) have published a number of macro-economic models to show how significant those benefits might be. One such model suggests an increase of global trade in manufactured goods by USD 377 billion per year (Wilson et al., 2005); another model suggests that each 1% saved in the cost of trading – through measures such as those promoted by the Agreement – could yield a worldwide benefit of USD 40 billion (Walkenhorst and Yasui, 2003).

In the UK, to give a country level example, there are more than sixty potential trade procedures which are administered by as many as twenty-five government departments and specialist agencies (Grainger, 2007a). Their impact and subsequent costs will differ significantly, depending on the nature of the goods, the specific commercial arrangements between buyers and sellers, and the transport arrangements. Within the UK meat import sector, the costs incurred by importers in clearing cargo through the authorities and the port can be as high as 40–80% of the haulage rates from the port to their final destination (Grainger, 2013). A model by KPMG (2006) suggests that UK businesses paying import taxes might experience an administrative burden as high as GBP 793 million per year.

Drawing from a broad pick of ideas and recommendations associated with the topic of trade facilitation (Grainger, 2011) the Agreement contains thirteen articles (Table 1). A number of these address ‘common sense’ remedies to known trade impediments, such as requiring countries to: publish trade and customs compliance recruitments as well as customs fees and tariffs on easily accessible websites; establish national enquiry points; publish of average release times (Article 1); and commit to consultation with the private sector before implementing measures (Article 2).

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<sup>2</sup> Though wider definitions of trade facilitation also expand scope to cover commercial procedure – e.g. to effect payment or arrange for transport – as well as the quality of transport infrastructure and wider institutional variables, such as corruption or quality of business support (e.g. to assist in export promotion).

*Table 1 Scope of WTO Trade Facilitation Agreement*

1. Publication and Availability of Information	7. Release and Clearance of Goods
2. Opportunity to Comment, Information Before Entry Into Force and Consultation	8. Border Agency Cooperation
3. Advance Rulings	9. Movement and of Goods under Customs Control Intended for Import
4. Appeal or Review Procedures	10. Formalities Connected with Importation and Exportation and Transit
5. Other Measures to Enhance Impartiality, No-Discrimination and Transparency	11. Freedom of Transit
6. Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation	12. Customs Cooperation
	13. Institutional Arrangements

Source: WTO, 2013,

Some of the thirteen articles are of a more technical nature, specifying amongst other issues: minimum benefits for trusted traders (such as within the WCO's SAFE framework of Standards and its Authorised Economic Operator scheme;<sup>3</sup> Article 7); advance customs rulings (for tariff classification and origin, but also recommended for customs value, duty relief, and quotas; Article 3); the right to appeal (Article 4); pre-arrival processing of customs declarations (Article 7); electronic payment of duties, taxes and fees (Article 7); the adherence to risk based controls (Article 7); post-clearance audits by customs (Article 7); the implementation of the special customs procedures, such as Inward Processing and Outward Processing Relief (Article 10); and expedited clearance for air cargo and perishable goods (Article 7).

Some Articles deal extensively with the cooperation amongst authorities at home as well as with the relevant authorities abroad. This includes provisions for: common border procedures and uniform document requirements (Article 10); the adoption of the single window principle (enabling importers to submit all relevant information for declaration to the authorities via one single interface; Article 10); and mechanism for the exchange of information between customs administrations (e.g. copies of the import and export declaration as well as supporting documents such as the commercial invoice and shipping documents; Article 12). The agreement also states that WTO Member States shall not introduce the mandatory use of customs brokers (Article 10). In countries where customs brokers are a

<sup>3</sup> WCO 2012. SAFE Framework of Standards: To Secure and Facilitate Global Trade. June ed. Brussels: World Customs Organisation.

licenced profession, applicable rules governing their use must be transparent and objective. Likewise, the introduction of pre-shipment inspection requirements (a costly aspect of trade with a number of developing countries) is to be discouraged (Article 10).

Most of the Agreement's trade facilitation measures have their roots elsewhere (Grainger, 2014), and include: the activities of the World Customs Organization; the thirty-five trade facilitation recommendations produced by the United Nations Centre for Trade Facilitation and Electronic Business (UN CEFAC); the International Maritime Organisation's Convention on Facilitation of International Maritime Traffic (FAL) (IMO, 1998); and the International Civil Aviation Organisation's Facilitation Annex 9 to the Chicago Convention (ICAO, 2002). For countries who subscribe to these, the WTO agreement will sound very familiar, although the discipline of the WTO ought to help ensure that they are more universally and consistently put in place.

One of the key challenges for implementing the Agreement is that trade facilitation concerns itself with businesses' operational requirements in international trade. Trade diplomats are unlikely to be suitably knowledgeable to provide adequate assessment (Grainger, 2008). A simple tick-box implementation of the Agreement's measures is unlikely to yield the full trade facilitation benefits. It is the quality and continued review of implementation that counts; and it is the private sector that through research and consultation is best able to advise.

Inevitably interests and views about what measures and how to implement them will differ significantly. One person's savings is likely to be another person's redundancy. Subsequent noise about the costs and benefits of the WTO's advocated measures is likely to be very technical, involving many private sector interest groups – which next to shippers and importers also include shipping lines, transport companies, freight forwarders, port operators, and banks.

Article 13 of the Agreement thus calls for the creation of National Trade Facilitation Committees to support domestic coordination and implementation of the agreement. These National Committees are to report to the WTO Committee on Trade Facilitation, which shall also maintain close contact with other international organizations, such as the WCO. The idea for national trade facilitation bodies is nothing new and has been long advocated by international organizations such as the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT, 2001). They ensure that suitable trade facilitation measures are implemented to maximum effect. They also help prevent inevitable conflicts between public and private sector interest groups from becoming stumbling blocks. Surprisingly, the Agreement is silent on how such national committees shall involve the private sector; although Article 2 does specify that regular consultation with the private sector shall, as appropriate, take place.

This paper discusses the role of the private sector in border management reform and the practicalities of private sector consultation. It recommends that for the WTO Trade Facilitation Agreement to be successful, Member States will need to ensure that adequate consultation mechanisms are developed.

## 2 THE ROLE OF PRIVATE SECTOR IN BORDER MANAGEMENT REFORM

The quality of the trade and border environment impacts upon the business community's bottom line – in particular by impacting on the cost of supply and the cost of placing goods onto the world's markets. Costs resulting from ensuring compliance with relevant trade and customs procedures may be experienced directly, when interacting with border agencies and preparing all the necessary formalities; or they may be experienced indirectly, hidden within the profit margins of suppliers and the fees charged by transport and logistics service providers. Inevitably, where competition is keenly felt and firms wish to safeguard sustainable profits, the private sector will want to ensure that trade and customs compliance does not unnecessarily add to the cost of doing business (Table 2). The private sector is thus one of the key driver's for trade facilitation and subsequent border management reform. Indeed, many trade facilitation recommendations advocated by international organizations (Table 3), including the most recent WTO Agreement, are the result of consultation with the private sector about possible solutions to the operational frustrations they perceive.

In many places, the private sector is also one of the main partners in ensuring that border management objectives are met. This is usually the result of preferential customs procedures which are made conditional on internalizing some or all of the control measures. These special procedures might confer fiscal or cash-flow benefits (e.g. Customs Warehousing, Duty Drawback, Outward Processing Relief) and operational benefits (e.g. fast-lane access, inland customs clearance, periodic entry). In this context it needs to be highlighted that the number of companies that are responsible for the bulk of customs related activity can be very small. In Australia, to give one example, the number of importers making more than 1,000 declarations per year is 450 – out of a total estimated population of 250,000 active importers (Widdowson et al., 2014). A similar example provides the express industry in the European Union where four companies (FedEx, UPS, DHL and TNT) clear about 40% of all customs declarations.<sup>4</sup> It follows that if the largest business operators can be suitably incentivized to take on much of the control burden, significant administrative resources within customs and other border

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<sup>4</sup> Figures are based on communications with Senior Customs managers within the sector.

agencies can be utilized for other uses. Trade facilitation is as much about creating benefits for private sector businesses as it is about putting scarce administrative to best use.

Last, but not least, the private sector is often relied upon for providing specialist services to border agencies. These may be specific to providing offices and facilities, completing operational tasks and supplying specialist services (Table 4). It is not inconceivable that many WTO Member States will ask the private sector to implement and manage some of the WTO recommended trade facilitation measures on their behalf – for instance for the maintenance of websites, the publication of national tariffs, the development of single window infrastructure and the development of new office and inspection facilities. There are three principle contracting vehicles for bringing in the private sector: through public procurement, through regulated fee structures or revenue sharing models, and through conditions specified in business authorizations (for example when authorizing a private sector company to operate a port conditions such as providing buildings and inspection facilities may be attached).

*Table 2 Examples of Issues That Frequently Concern International Shippers*

- |   |
|---|
| <ul style="list-style-type: none"> <li>– Overall complexity of rules and procedures</li> <li>– Duplication of reporting requirements to multiple government bodies</li> <li>– Reliance on paperwork that in the required format is not easily obtainable</li> <li>– Uncertainty resulting from unclear compliance requirements</li> <li>– Failure to take advantage of modern information and communication technology</li> <li>– Queues and backlogs at official inspection facilities</li> <li>– Failure of officials to appreciate commercial requirements</li> <li>– Corruption</li> <li>– Introduction of new procedures and control regimes at short or no notice</li> <li>– Inconsistent enforcement of rules and procedures</li> <li>– Delay and poor service when lodging application or making declarations</li> <li>– Excessive charges levied by related parties without (or only very limited) choice of alternative providers (e.g. port labour charges relating to official inspections, terminal handling and inspection charges levied by shipping lines and port operators, lab-charges for officially appointed laboratories)</li> <li>– The cost of the necessity to appoint specialist, agents and brokers</li> <li>– Uncertainty about port and border clearance times with subsequent cost implications for required buffer stock (inventory) and transport management (e.g. booking vehicles to collect cargo from ports).</li> </ul> |
|---|

*Source:* Author.

Table 3 *International Trade Facilitation Recommendations and Instruments*

International Trade Facilitation Recommendations and Instruments
<b>World Trade Organization (WTO)</b>
<p>Trade Facilitation Specific Articles: <b>GATT Article V</b> (freedom of transit), <b>GATT Article VIII</b> (fees and formalities) and <b>GATT Article X</b> (publication and administration of trade regulations)</p> <p>Customs Valuation: <b>GATT Article VII</b> (technical interpretation covered by the WCO)</p> <p><b>WTO Agreement on Rules of Origin</b> (technical interpretation of 'non-preferential rules of origin' covered by the WCO)</p>
<b>World Customs Organisation (WCO)</b>
<p><b>Kyoto Convention</b> for Harmonising Customs Procedures; WCO Harmonised Commodity Code Descriptions and Coding System (<b>HS System</b>); Framework of Standards to Secure and Facilitate Global Trade (<b>SAFE</b>);</p>
<b>United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT)</b>
<p><b>Rec. N°1:</b> United Nations Layout Key for Trade Documents; <b>Rec. N°. 2:</b> Locations of Codes in Trade Documents; <b>Rec. N°. 3:</b> Code for the Representation of Names of Countries; <b>Rec. N°. 4:</b> National Trade Facilitation Bodies; <b>Rec. N°. 5:</b> Abbreviations of INCOTERMS; <b>Rec. N°. 6:</b> Aligned Invoice Layout Key for International Trade; <b>Rec. N°. 7:</b> Numerical Representation of Dates, Time and Periods of Time; <b>Rec. N°. 8:</b> Unique Identification Code Methodology – UNIC; <b>Rec. N°. 9:</b> Alphabetic Code for the Representation of Currencies; <b>Rec. N°. 10:</b> Codes for the identification of Ships; <b>Rec. N°. 11:</b> Documentary Aspects of the Transport of Dangerous Goods; <b>Rec. N°. 12:</b> Measures to Facilitate Maritime Transport Documents Procedures; <b>Rec. N°. 13:</b> Facilitation of Identified Legal Problems in Import Clearance Procedures; <b>Rec. N°. 14:</b> Authentication of Trade Documents by Means Other than Signature; <b>Rec. N°. 15:</b> Simpler Shipping Marks; <b>Rec. N°. 16:</b> LOCODE – Code for Trade and Transport Locations; <b>Rec. N°. 17:</b> PAYTERMS – Abbreviations for Terms of Payment; <b>Rec. N°. 18:</b> Facilitation Measures Related to International Trade Procedures; <b>Rec. N°. 19:</b> Code for Modes of Transport; <b>Rec. N°. 20:</b> Codes for Units of Measure Used in International Trade; <b>Rec. N°. 21:</b> Codes for Passengers, Types of Cargo, Packages and Packaging Materials; <b>Rec. N°. 22:</b> Layout Key for Standard Consignment Instructions; <b>Rec. N°. 23:</b> Freight Cost Code – FCC; <b>Rec. N°. 24:</b> Trade and Transport Status Codes; <b>Rec. N°. 25:</b> Use of the UN Electronic Data Interchange for Administration, Commerce and Transport Standard (UN/EDIFACT); <b>Rec. N°. 26:</b> The Commercial Use of Interchange Agreements for Electronic Data Interchange; <b>Rec. N°. 27:</b> Preshipment Inspection; <b>Rec. N°. 28:</b> Codes for Types of Means of Transport; <b>Rec. N°. 31:</b> Electronic Commerce Agreement; <b>Rec. N°. 32:</b> E-Commerce Self-Regulatory Instruments (Codes of Conduct); <b>Rec. N°. 33:</b> Single Window Recommendation</p>



<b>United Nations Conference on Trade and Development (UNCTAD)</b> ASYCUDA: an open source off-the-shelf computerized customs management system used in more than seventy countries ( <a href="http://www.asycuda.org">http://www.asycuda.org</a> )
<b>ICAO and IATA (Air)</b>
IATA <b>e-freight initiative</b> ; ICAO Convention on International Civil Aviation ( <b>Annex 9: Trade Facilitation</b> ); ‘ <b>know shipper/known consignor</b> ’ concept
<b>International Maritime Organisation (IMO)</b>
Convention on Facilitation of International Maritime Traffic ( <b>FAL</b> ); Safety of Life at Sea Convention ( <b>SOLAS</b> ); International Ship and Port Facility Security Code ( <b>ISPS-Code</b> )
<b>Other International Organisations</b>
UNECE: Working Party 7 looking after <b>agriculture quality standards</b> ; UNECE and IRU: <b>TIR</b> (Road Transit) Convention; <b>ISO</b> : countless product and quality standards; ICC: <b>Incoterms</b> (standardized trading terms used in international trade); ICC: Uniform Customs and Practices for Letters of Credit ( <b>UCP</b> ); ICS: <b>Standard [shipping] Manifest Report and Recommendation</b> ; ICS: Standard <b>Format of Bills of Lading</b>

Source: Grainger 2011; original is an adaption from (Grainger, 2007b, UN/CEFACT and UNCTAD, 2002)

<p><i>Table 4 Services Supplied by Businesses to Border Management Agencies</i></p> <p><b>Providing offices and facilities</b></p> <ul style="list-style-type: none"><li>– Land, buildings, inspection facilities</li><li>– Utilities (water, electricity and other energy supply).</li><li>– Electronic infrastructure, office equipment, information and communications technology (ICT) equipment</li><li>– Other equipment and tools (cars, uniforms, telephones, office stationery, inspection equipment)</li></ul> <p><b>Completing operational tasks</b></p> <ul style="list-style-type: none"><li>– Preshipment inspection</li><li>– Destination inspections</li><li>– Independent certification and verification</li><li>– Moving cargo to and from inspection facilities</li><li>– Unpacking and repackaging inspected cargo</li><li>– Managing and maintaining electronic infrastructure</li><li>– Independent analysis and testing (laboratory services)</li><li>– Supplying permanent and temporary support staff (skilled and unskilled)</li></ul>
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**Supplying specialist services**

- Staff training
- Printing and publication services
- Catering and hospitality services
- Electronic infrastructure development
- Staff insurance, pension, and health services
- Building, equipment, and infrastructure maintenance
- Donor funded capacity building projects delivered by private contractors

*Source:* Grainger, 2010.

### 3 PRIVATE SECTOR CONSULTATION

To a large extent, the Agreement elevates much of the private sector demands for border management reform to a new level. In addition to driving unilateral reform measures at home, trade facilitation will be placed into a wider multilateral framework with binding obligations. However, within the Agreement there remains much leeway about specifications and the quality of their implementation. Member States still need to develop a view on how they wish to implement measures in practice as well as to hold other Member States to the agreement. Like any other border management reform initiatives, policy makers and their executives are advised to consult carefully with the private sector. This ensures that resources allocated to implementing trade facilitation measures are put to best use and that they successfully help reduce the cost of trade at home and with trade partners.

Dialogue also brings other benefits. It helps untangle complexity and encourages a climate of shared responsibility and ownership. Dialogue also helps to set reform priorities, leading to initiatives that focus on the most desired outcomes. Furthermore, regular public-private exchange can also provide consensus on reform priorities. Alliances forged through dialogue – if suitable – can also lend themselves to joint lobbying for political patronage and access to necessary resources and actions. At a more practical level, private sector stakeholders may also be relied upon to provide input into project specification, share views on implementation options and preferences, participate in pilot projects and help assess the trade facilitation-related performance at home and amongst trade partners.

Approaches to consultation on trade facilitation include: dedicated institutions tasked with championing trade facilitation in collaboration with the private sector; arm's length approaches, such as open consultation letters inviting interested parties to express views on a given issue; and approaches driven by formal assessment and

research, such as the investigation of private sector trade facilitation reform requirements using surveys, toolkits, and commissioned studies (Grainger, 2010).

### 3.1 COLLABORATIVE CONSULTATION

There are several models for collaborative consultation. At the national level the UNECE CEFAC Committee recommends so-called National Trade Facilitation Bodies.<sup>5</sup> The UNECE currently lists thirty-one National Trade Facilitation Bodies on its web-directory (UNECE, 2014). They have been formed in recognition that all parties directly involved in trade and border reform – government agencies, trade and transport service users, and trade and transport service providers – must consult with each other and approach trade facilitation activities in a coordinated manner (Table 5). Such bodies may be funded by government and operate independently – such as SITPRO, the former UK trade facilitation agency. They may be funded by governments and be attached to a government department – such as Sweden's SWEPRO. They may be completely independent from government and operate as a private sector interest group with focus on trade facilitation – such as the French International Trade Facilitation and Simplification Body, ODASCE (*Office de Développement par l'Automatisation et la Simplification du Commerce Extérieur*).<sup>6</sup> Tasks performed by the executives of national trade facilitation committees in consultation with its members can be manifold; see Table 6.

*Table 5 'The Need for Coordination and Consultation': Extract from Recommendation 4 of the United Nations Centre for Trade Facilitation and Electronic Business (2001)*

22. Facilitation activities must be approached in a coordinated manner to ensure that problems are not created in one part of the transaction chain by introducing solutions to another part. The needs of all parties, both private and public sectors, must be identified before solutions can be found and those best placed to explain their needs are those directly involved in the transaction chain. This requires an effective forum where private-sector managers, public-sector administrators and policy makers can work together towards the effective implementation of jointly-agreed facilitation measures.

In many instances trade facilitation measures – including several of those within the WTO Agreement – can be specific to one single government agency, such as

<sup>5</sup> Sometimes also referred to as National Trade Procedures Committees and shortened to 'PRO-Committee'.

<sup>6</sup> For details see Grainger, A. 2010. The Role of the Private Sector in Border Management Reform. In: McLinden, G., Fanta, E., Widdowson, D. & Doyle, T. (eds.) *Border Management Modernization*. Washington: World Bank.

Customs. That agency may choose to take responsibility for consultation independently, but still coordinate with the National Trade Facilitation Body (where existing). One well established example is the UK's Joint Customs Consultative Committee (JCCC), with an active history dating back to 1969.<sup>7</sup>

*Table 6 Tasks That May Fall upon a National Trade Facilitation Body*

- |  |
|--|
| <ul style="list-style-type: none"> <li>– Identify issues affecting the cost and efficiency of international trade operations</li> <li>– Provide a national focal point for the collection and dissemination of information on best practices in international trade facilitation (such as that of the WTO Trade Facilitation Agreement)</li> <li>– Develop measures to reduce the cost and improve the efficiency of international trade</li> <li>– Promote those measures at the right policy levels (local, national, regional, international) and assist in their implementation; where necessary to also help in soliciting donor support</li> <li>– Participate in international and regional efforts to improve trade facilitation and efficiency</li> <li>– Prepare, draft and review guidance and information materials</li> <li>– Help draft and periodically review the country's national trade facilitation strategy</li> <li>– Monitor the performance of ministries and departments in terms of them meeting trade facilitation objectives and targets; and hold ministries and departments accountable</li> <li>– Help mainstream trade facilitation with the country's administrative culture</li> </ul> |
|--|

*Source:* Author.

Location specific consultation approaches may be necessary where trade facilitation concerns itself directly with the operations at a specific locality – such as at individual ports and border crossings. To this end, progressive port authorities and operators often work with dedicated port-user groups that ensure that any changes in operational practices – including those of customs and other border agencies – are suitably coordinated to help meet port-user expectations. Typical issues addressed within such consultation groups relate to operating hours, terminal handling fees, availability of dock labour and queue management at the port gates and the inspection facilities, specifications and user-requirements for electronic port systems and special local trade and customs arrangements specific to that port or border crossing facility.

<sup>7</sup> For details see *ibid.*

### 3.2 ARMS-LENGTH CONSULTATION APPROACHES

Rather than consulting the private sector face-to-face within national or departmental consultation bodies, arms-length approaches seek to establish private sector views through official requests – such as in the form of an open letter to the business community (published in the official gazette or posted on a government website). Written responses are then collated by officials (or occasionally by contracted consultants or researchers) and presented in a summarized report.

### 3.3 CONSULTATION APPROACHES BASED ON ASSESSMENT AND RESEARCH

Policy makers concerned about private sector interests may also choose to draw on independent commissioned research and/or standardized assessment tools. While the former relies on the services of consultants and academics to develop their own bespoke research strategies, the latter takes a more standardized approach. Prominent examples of standardized assessment methods include the WCO Time Release Study framework (WCO, 2011, Matsuda, 2012) – to which specific reference is also made in the Agreement (Article 7) – and the WCO Benchmarking Manual (WCO, 2003), amongst others (World Bank, 2013b, World Bank, 2013a).

## 4 CHALLENGES OF WORKING WITH THE PRIVATE SECTOR

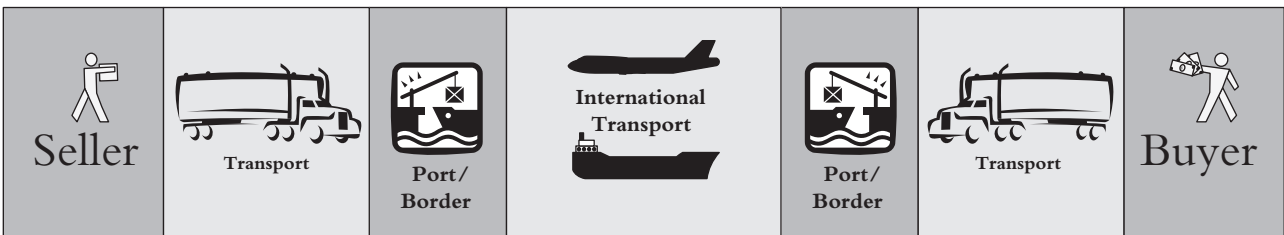
Inevitably, private sector interests will be as diverse as the diversity in trade logistics practices; which in turn is subject to competitive market forces and power relationships within respective supply chain arrangements. Typically, any shipment of goods across borders will involve the following entities:

- Traders, such as buyers, sellers, their agents and distributors.
- Transport operators, such as shipping lines, airlines, railway companies, logistics and trucking companies.
- Providers of trade services, such as banking, finance and insurance.
- Operators of transport infrastructure, such as port terminals, airports, stevedores and handling agents, warehouses and electronic information systems and.
- Specialist service providers, such as freight forwarders, brokers and shipping agents (Grainger, 2012).

Each is likely to have different exposures to costs, many may not even be fully aware of them – especially where compliance is subcontracted to specialist service providers. Moreover, responsibilities for export and import clearance within any

international shipment is unlikely to be the responsibility of one single organization (except Express Operator who will typically offer a door-to-door service) and dependent on the Incoterms (ICC, 2010) used and specific arrangements for preparing, transporting, clearing and paying for the transaction (Figure 1).

Figure 1 International Supply Chain Operators



<b>Order / Prepare</b>	Importer; Exporter; Export Country of Authorities; Insurance Companies; Chamber of Commerce; Export/Import Agent; Licensing Agency; Credit Checking Company; Other Intermediaries
<b>Transport</b>	Transport Operator (Air, Rail, Road, Sea, Pipeline); Freight Forwarders and Logistics Service Providers; Warehousing and Distribution Companies; Packaging Companies; Cargo Consolidators
<b>Port /Border Crossing</b>	Customs (Import, Export, Transit); Health Authorities; Port and Terminal Operators; Stevedores and Cargo Handling Agents; Quarantine Services; Immigration Services; Customs Brokers
<b>Payment</b>	Banks and Finance Companies

Source: Adapted from (SW/EPRO, 2008).

A system-wider understanding of costs and reform requirements can be difficult to develop – especially in trade operations which require engagement with multiple government agencies by different parties within the supply chain. To give one example, Figure 2 outlines those procedures and compliance steps necessary to import meat into the UK. Altogether, UK meat imports require twenty-six steps with obligations falling upon the exporter, the importer, the agent appointed by the importer, the shipping line, the port health authority, customs and the port operator (Table 7). Detailed studies, such as this example, can take time to prepare and few, if any, of the parties concerned have system-wide visibility. This task falls upon researchers, consultants, policy makers, and where existent, the National Trade Facilitation Bodies.

*Table 7 Number of Transactional Steps in Import Compliance Operations for UK Meat Imports by Party Responsible*

	<i>Exporter</i>	<i>Importer</i>	<i>Agent</i>	<i>Shipping Line</i>	<i>RPA</i>	<i>PHA</i>	<i>HMRC</i>	<i>Total</i>
Number:	1–2	4–7	10–13	3	2	1	2	<b>26</b>

*Source:* Grainger, 2013.

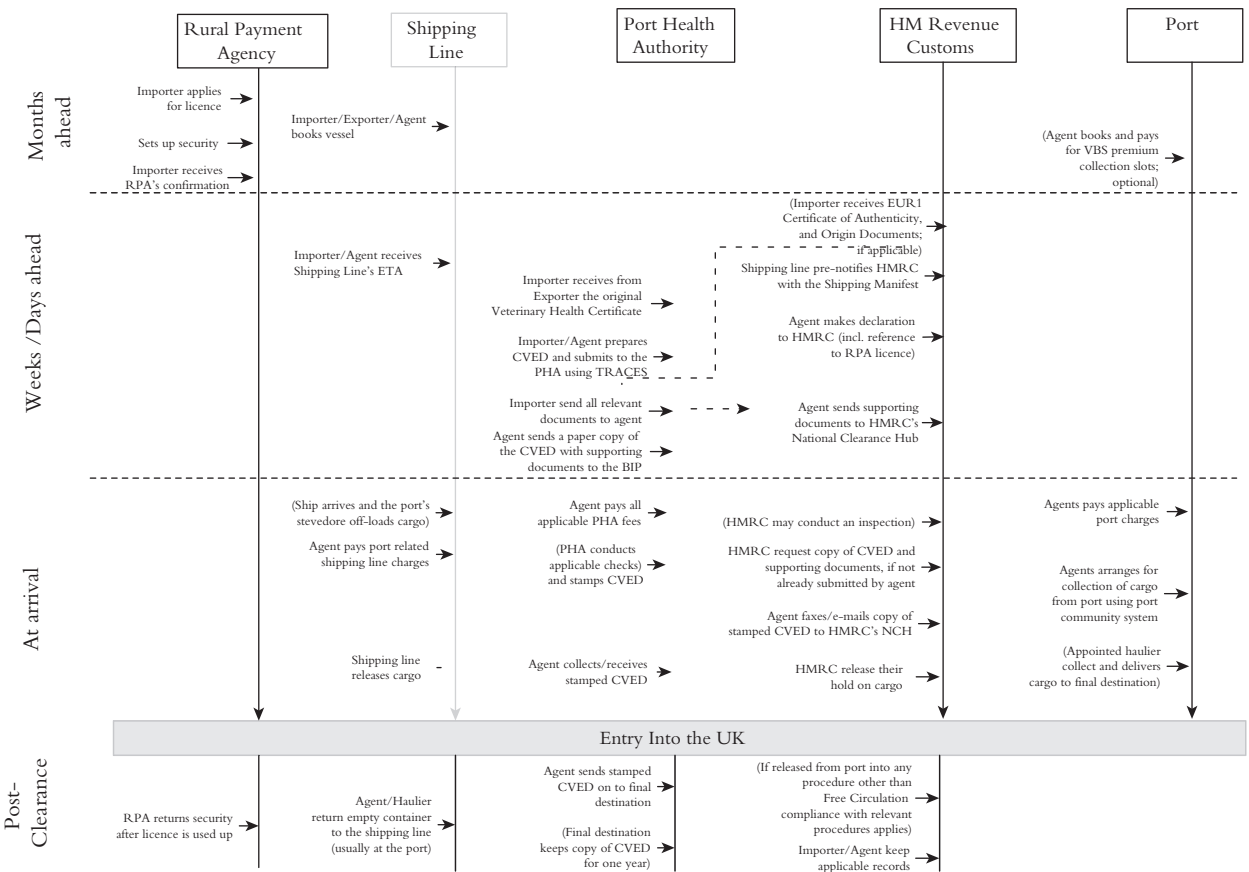
A further challenge is that there is no one single private sector voice. The private sector is likely to represent itself by industry-sector as well as country affiliation and special interests. Figure 3 (based on research conducted back in 2006 (Grainger, 2007b) details all the business interest groups that sought to influence customs policy in the UK at the national level, in the European Union at a regional level and at the WCO at an international policy level. It shows that at UK and EU level representation is made by business interest groups with affiliations to: the transport, logistics and ports sector; various non-transport and logistics sectors; and business interest groups (such as national trade facilitation bodies and the Chambers of Commerce). At the WCO level, individual firms are seeking to influence the outcome of policy, too.

Complexity does not only relate to the diversity in views and interests amongst sectors, it also relates to interdependency between local, national, regional and international policy levels. Internationally agreed measures, such as those within the Agreement, need be trickled down to the national level while the quality of their implementation needs to be fed back up (Figure 4). The coordination of views, facts and concerns – once established – can take considerable time and effort.



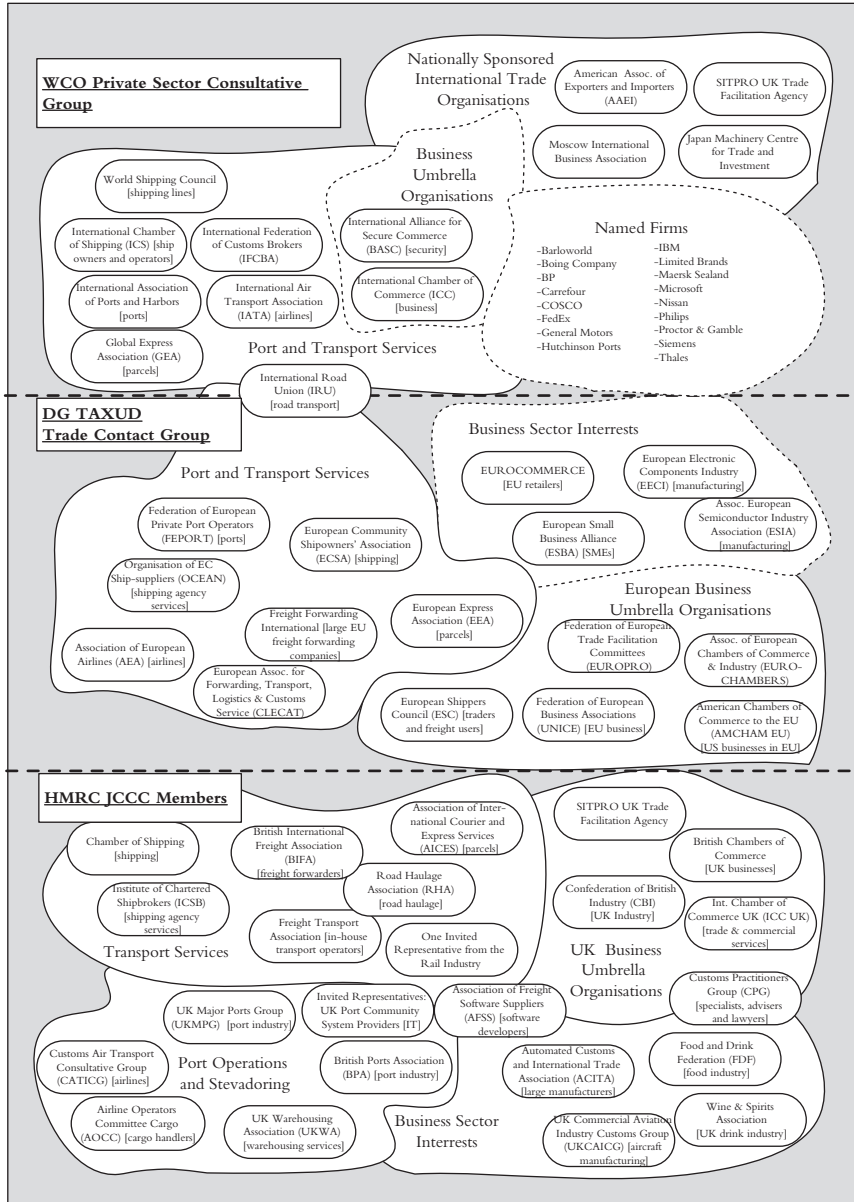
Last but not least, some interest groups may have conflicting interest, for example by seeking to direct reform towards shifting the nature of market competition in their favour. This is often the case where trade facilitation measures require the private sector to make substantial investments (e.g., the capital and administrative resources required to operate electronic systems that are able to directly interface with the customs computer), which will only yield benefits if sufficient economies of scale can be achieved. Those with lesser economies of scale may choose to outsource to specialist service providers with suitable economies of scale. These may or may not pass on any compliance cost savings that their investment has yielded. Untangling the interests and anxieties of effected businesses require deep knowledge, great sensitivity and experience.

Figure 2 Transactional Steps for Meat Imports into the UK: Operational and Non-mandatory Steps Are Indicated in Brackets



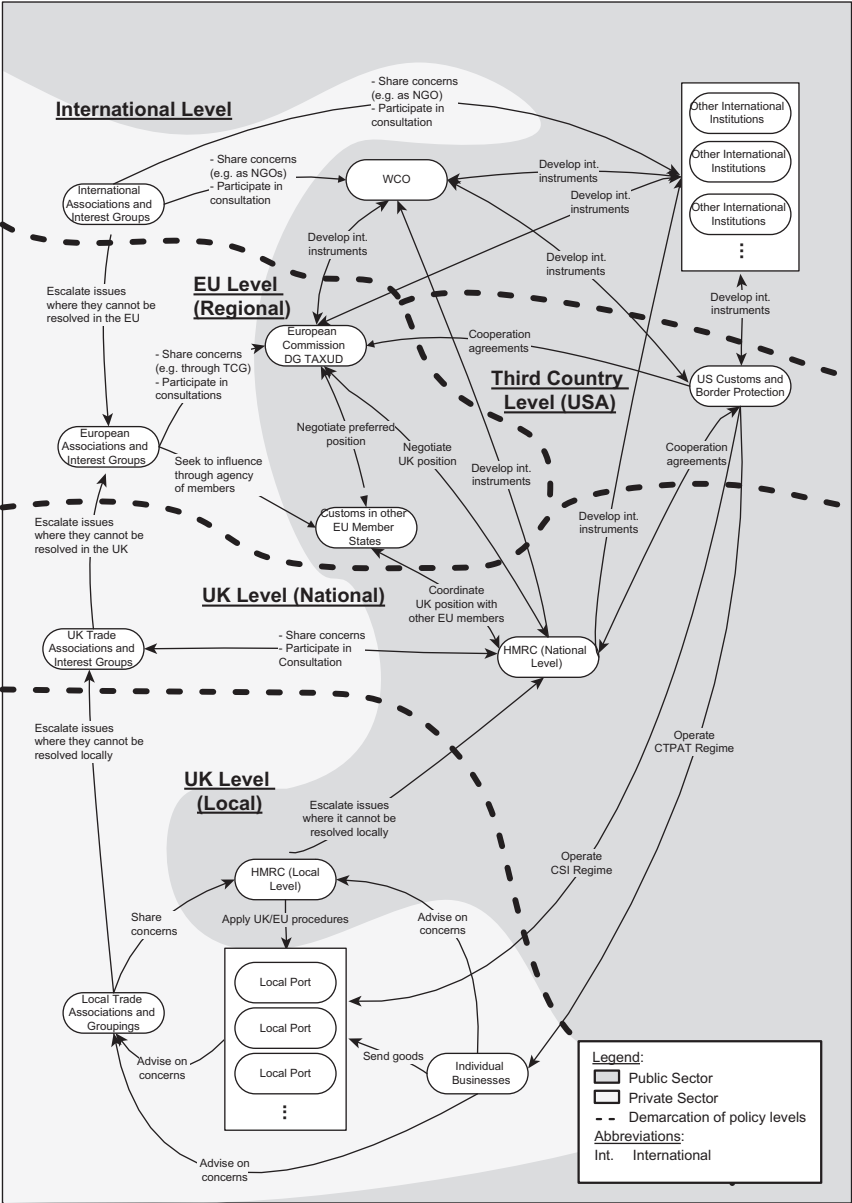
Source: Grainger, 2013.

Figure 3 Overview of Business Interest Associations Seeking to Influence Customs Policy in the UK, EU and at the WCO



Source: Grainger, 2007b.

Figure 4 Customs Policy Making in the UK



Source: Grainger, 2007b.

## 5 IMPLICATIONS FOR WTO TRADE FACILITATION AGREEMENT

Trade facilitation and demand for reform has its roots in the frustrations experienced by the private sector. Hence, it is only prudent to adequately involve and consult the private sector. The case for private sector consultation is well made within the UN CEFACT Recommendation Number 4, which calls for the establishment of National trade Facilitation Bodies (UN/CEFACT, 2001). Likewise, though somewhat narrower in scope, the Agreement acknowledges that consultation with the private sector is necessary before implementing any measures (Article 2), but silent on how specific such consultation should be done and how findings should be considered at the national level. The Agreement also fails to consider how the private sector can feed back to the WTO Trade Facilitation Committee. The latter is important where the Committee needs to develop a view on the quality of implementation within the respective Member States. At present, it is not quite clear what part the private sector shall play.

A likely approach by private sector interest groups is to influence the WTO Committee via the representation of Member State delegations. It is also likely that they may seek to work with international organizations, such as UN CEFACT and the WCO Private Sector Consultative Group – both of which are amenable to private sector views and contributions. National and Regional Trade Facilitation Bodies can help ensure that noise (positive and negative) about the Agreement is constructively channelled. At present though, there are precious few national Trade Facilitation Bodies. This needs to be changed – especially since they would be well placed to help galvanize views about the quality of trade facilitation at home as well as in export markets. A global Trade facilitation umbrella body, perhaps attached to the WTO as an NGO, may be necessary to help coordinate private sector input at international and national policy levels. Alternatively, UN CEFACT or similar international trade facilitation champions need to step-in.

## REFERENCES

- Grainger, A. 2007a. Supply chain security: adding to a complex operational and institutional environment *World Customs Journal*, 1, 17–29.
- Grainger, A. 2007b. *Trade Facilitation and Supply Chain Management: a case study at the interface between business and government*. PhD, Birkbeck, University of London.
- Grainger, A. 2008. Customs and trade facilitation: from concepts to implementation. *World Customs Journal*, 2, 17–30.

- Grainger, A. 2010. The Role of the Private Sector in Border Management Reform. In: McLinden, G., Fanta, E., Widdowson, D. & Doyle, T. (eds) *Border Management Modernization*. Washington: World Bank.
- Grainger, A. 2011. Trade Facilitation: a conceptual review. *Journal of World Trade*, 45, 39–62.
- Grainger, A. 2012. Trade Facilitation. In: Ken Heydon & Stephen Woolcock (eds.) *Ashgate Research Companion to International Trade Policy*. Aldershot: Ashgate.
- Grainger, A. 2013. Trade and customs procedures: the compliance costs for UK meat imports. *ePrints*. Nottingham: University of Nottingham.
- Grainger, A. 2014. WTO-Abkommen zur Handelserleichterung. *Aussenwirtschaftliche Praxis*, 20, 31–34.
- ICAO. 2002. International Standards and Recommended Practices: Annex 9 to the Convention on International Civil Aviation. 11th ed. International Civil Aviation Organization, Montreal.
- ICC. 2010. Incoterms 2010. International Chamber of Commerce Publication, Paris.
- IMO 1998. *Facilitation Convention (FAL)*, International Maritime Organization, London.
- KPMG 2006. Administrative Burdens – HMRC Measurement Project. London: KPMG.
- Matsuda, S. 2012. The Time Release Study as a performance measurement tool for a supply chain and an international corridor. *World Customs Journal*, 6, 79–92.
- Staples, B. R. 2002. Chapter 16 – Trade Facilitation: Improving the Invisible Infrastructure. In: Hoekman, B., Mattoo, A. & English, P. (eds.) *Development, Trade, and the WTO: A Handbook*. Washington: World Bank.
- SWEPRO. 2008. Supply Chain Security Initiatives: A Trade Facilitation Perspective. Stockholm: Kommerskollegium.
- UN/CEFACT 2001. Recommendation 4: National Trade Facilitation Bodies (second edition) [ECE/TRADE/242] United Nations Centre for Trade Facilitation and Electronic Business,, Geneva, October 2001.
- UN/CEFACT & UNCTAD 2002. Compendium of Trade Facilitation Recommendations United Nations Centre for Trade Facilitation and Electronic Business, Geneva.
- UNECE. 2014. *List of National Trade Facilitation Bodies / Committees* [Online]. Geneva. Available: [http://www.unece.org/cefact/nat\\_bodies.html](http://www.unece.org/cefact/nat_bodies.html) [Accessed 12 May 2014].

- Walkenhorst, P. & Yasui, T. 2003. Quantitative Assessment of the Benefits of Trade Facilitation. Organisation for Economic Co-operation and Development, Working Party of the Trade Committee, Paris.
- WCO. 2003. Customs international benchmarking; Benchmarking Manual. World Customs Organization, Brussels.
- WCO. 2011. Guide to measure the time required for the release of goods (Version 2). World Customs Organisation, Brussels.
- WCO. 2012. SAFE Framework of Standards: To Secure and Facilitate Global Trade. World Customs Organisation, Brussels.
- Widdowson, D., Blegen, B., Kashubsky, M. & Grainger, A. 2014. Review of Accredited Operator Schemes. Centre for Customs and Excise Studies, Charles Sturt University.
- Wilson, J. S., Mann, C.L. & Otsuki, T. 2005. Assessing the Benefits of Trade Facilitation: A Global Perspective. *World Economy*, 28, 841–871.
- World Bank. 2013a. *Doing Business – Trading Across Borders* [Online]. Available: <http://www.doingbusiness.org/ExploreTopics/TradingAcrossBorders/> [Accessed 23 June 2013].
- World Bank. 2013b. *Logistics Performance Index (LPI)* [Online]. Available: [www.worldbank.org/lpi](http://www.worldbank.org/lpi) [Accessed 23 June 2013].
- WTO. 2013. Negotiating Group on Trade Facilitation – Draft consolidated negotiating text – Revision 16 [TN/TF/W/165/Rev.16]. World Trade Organization, Negotiating Group on Trade Facilitation, Geneva.